



Fulton County Sheriff's Office

Fulton County, Georgia

Timothy Webster

PLAINTIFF(S)

VS

CIVIL ACTION NO. 58-CV-2017-901175

Environmental Protection Agency, Region IV

DEFENDANT(S)

Atlanta Federal Center
61 Forsyth Street SW
Atlanta, GA. 30303

AFFIDAVIT OF SERVICE

GEORGIA, FULTON COUNTY

Personally appeared before the undersigned attesting authority, A. BURNETT,
Who after duly sworn, on oath, deposes and says:

Deponent is a Deputy Sheriff of Fulton County, Georgia and did on the 26th day of
Aug., 20 , serve a ☐ SUMMON ☐ complaint ☒ subpoena in the above styled case
upon Environmental Protection Agency ☐ personally (or) ☐ as registered agent for
Environmental Protection Agency, Region IV, by leaving with Carlos Arsencio
at 61 Forsyth Street SW Atlanta GA. 30303

@ 1215 hrs.

A. Burnett #2243
Deputy Sheriff

AFFIDAVIT OF DILIGENT SEARCH

GEORGIA, FULTON COUNTY

Personally appeared before the undersigned attesting authority, _____,

Who after duly sworn, on oath, deposes and says:

Deponent is a Deputy Sheriff of Fulton County, Georgia and did on the _____ day of
_____, 20_____, was unable to serve ☐ summon ☐ complaint ☐ subpoena in the above
styled case
upon _____

Sworn to and subscribed before me this

Deputy Sheriff

day of

_____, 20____.

(seal)

Notary Public



SUBPOENA FOR DEPOSITION

Timothy Webster, et al.

Versus

Colonial Pipeline Company, et al.

Case Number: _____

Superior Court
Fulton County, Georgia

To: Name: Environmental Protection Agency, Region IV

Address: Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303

GREETINGS:

You are hereby commanded, that you attend and give testimony at the following date and time:

The _____ day of, _____ at: _____ : _____ a.m./p.m.

At the following address and place:

Sirote & Permutt, P.C.
P.O. Box 55727
Birmingham, AL 35255

Then and there to be examined on deposition for the purpose of discovery and for the preservation of testimony by the
in the above entitled case, and to bring with you to said deposition the following books, papers, documents and tangible things:

This deposition shall be recorded by the following means:

☐ Stenographic means; ☐ Sound; ☐ Sound and Visual means.

HEREIN FAIL NOT, UNDER PENALTY OF LAW

This the, _____ day of, _____ 20____

Honorable Cathelene "Tina" Robinson, Clerk of
Superior Court

By *L. W. Shepard*
Deputy Clerk

**ORDER TO APPEAR
(SUBPOENA)**

Cas
58-1



ELECTRONICALLY FILED
7/12/2019 6:04 PM
58-CV-2017-901175.00
CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

☐ State of Alabama

☐ Municipality of _____

☒ **TIMOTHY WEBSTER ET AL V. COLONIAL PIPELINE COMPANY ET AL**

(For Juvenile cases only):

☐ In the Matter of _____

ENVIRONMENTAL PROTECTION AGENCY, REGION IV

ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW
ATLANTA, GA 30303

A. Issued at the request of :

1. ☒ Plaintiff/State

2. ☐ Defendant

3. ☐ Grand Jury

B. Special Instructions

You are ordered to:

1. ☐ Appear at trial

2. ☒ Produce records or documents-See attached schedule(s)

3. ☐ Appear at deposition

4. ☐ Other _____

You may contact: JAMES SARVEN WILLIAMS 2311 HIGHLAND AVENUE SOUTH BIRMINGHAM, AL 35205 (205) 930-5178

YOU ARE ORDERED TO APPEAR to give testimony before the court or by deposition; and/or produce and permit inspection and copying of books, documents, or tangible things; and/or permit inspection of premises as stated below until otherwise excused. Failure to obey this subpoena may be deemed a contempt of court from which the subpoena was issued.

DATE: 07/31/2019 12:00 AM

ROOM: _____

ADDRESS: SIROTE & PERMUTT, PC

P.O. BOX 55727

Birmingham, AL 35255

DATE ISSUED: 7/12/2019

/s/ MARY HARRIS

Signature of Court Clerk

Deputy Clerk Initials

ADDITIONAL INSTRUCTIONS

Any inspection or production of documents or records
must be completed within 15 days

TO ANY SHERIFF OF THE STATE OF ALABAMA OR ANY AUTHORIZED PERSON: You are ordered to serve this order on the above named person and make return to this court.

RETURN ON SERVICE

I certify that I personally delivered a copy of this order
to _____

on _____

(For Criminal cases only)

☐ Served By Mail

Date Mailed _____

Signature and Title of Server

Sheriff

Deputy Sheriff

NOTICE

With respect to a subpoena which seeks only a production of documents or tangible things or an inspection of premises, as provided in Ala.R.Civ.P. 45(a) (3) (C), the production of documents or tangible things or the inspection of premises pursuant to this subpoena shall take place where the documents or tangible things are regularly kept or at some other reasonable place designated by the recipient of this subpoena. As recipient of this subpoena, you have the option to deliver or mail legible copies of the documents or things to the party causing issuance of this subpoena, and the preparation of copies may be conditioned on the payment in advance of the reasonable cost of making such copies. Other parties involved in this lawsuit have the right to be present at the time of the production or inspection. The recipient of this subpoena has the right to object to the production or inspection at any time prior to the date of production or inspection set forth in this subpoena. See Ala. R.Civ.P. 45(c) (2) (B), which is set out below.

Rule 45, Ala. R.Civ.P., Paragraphs (c) & (d)

(c) Protection of person subject to subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court from which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, document or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying at any time before the time specified for compliance may serve upon the party or attorney designed in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expenses resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a resident of this state who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a nonresident of this state who is not a party or an officer of a party to travel to a place within this state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provision of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expenses to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in responding to subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(3) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(4) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(5) A person responding to a subpoena need not provide discovery of electronically stored information from sources the person identifies to the requesting party as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(B). The court may specify conditions regarding the production of the discovery.

(6) If information is produced in discovery that is subject to a claim of privilege or of protection as trial-preparation material, the person or party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. Any party or the producing person may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.



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CIRCUIT COURT OF
SHELBY COUNTY, ALABAMA
MARY HARRIS, CLERK

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

**TIMOTHY WEBSTER;
SHELBY INVESTMENTS, LLC; and
CAHABA OUTFITTERS, LLC;**

Plaintiffs,

v.

**COLONIAL PIPELINE COMPANY;
L.E. BELL CONSTRUCTION COMPANY,
INC.; and FICTITIOUS PARTIES A-C;**

Defendants.

Case No. 58-CV-2017-901175

**CIVIL SUBPOENA FOR PRODUCTION
OF DOCUMENTS UNDER RULES 34(c) & 45**

**TO: Environmental Protection Agency, Region IV
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-3104**

DEFINITIONS

The following term shall have the indicated meaning herein:

(1) The term "document" shall include, without limitation, writings, correspondence, agreements, instruments, forms, records, minutes, memoranda, messages, handwritten and other notations and markings, bank records, canceled checks and statements, statements of insured or claimant, statements of witnesses, findings of investigations, analysis, conclusions, recommendations, charts, photographs, tape and other sound recordings and any other data compilation from which information can be obtained. The term "documents" shall also include (i) records kept by electronic, photographic, or mechanical means (ii) any non-identical copies of

described material, (iii) any drafts of documents, and (iv) all described material in your possession, custody or control (or in the possession, custody, or control of your attorney(s)).

(2) The term “communications” means any transmission or exchange of information, directly or indirectly, and shall include both oral and written communications, including communications by telephone, voice mail, mail, facsimile, electronic mail, audiotape, videotape, CD, DVD, text or instant electronic messages, or any other means.

(3) The term the “subject lawsuit” means the lawsuit styled *Webster, et al. v. Colonial Pipeline Company, et al.*, Case No. 58-CV-2017-901175, which is currently pending in the Circuit Court of Shelby County, Alabama.

(4) The terms “you” and “your” mean the United States Environmental Protection Agency and any all employees, agents, or representatives acting on behalf of the United States Environmental Protection Agency.

(5) The term “Colonial” means Colonial Pipeline Company, who is a Defendant in the subject lawsuit, and any all subsidiaries, affiliated entities, employees, contractors, agents, or representatives acting on behalf of Colonial.

(6) The term “L.E. Bell” means L.E. Bell Construction Company, Inc., who is a Defendant in the subject lawsuit, and any all subsidiaries, affiliated entities, employees, contractors, agents, or representatives acting on behalf of L.E. Bell.

(7) The term “Superior” means Superior Land Designs, LLC, who is a Defendant in the subject lawsuit, and any all subsidiaries, affiliated entities, employees, contractors, agents, or representatives acting on behalf of Superior.

(8) The term “remediation site” means the site located on County Road 251 in Shelby County, Alabama where the October 31, 2016 incident occurred which resulted in the explosion

and corresponding release of gasoline from the pipeline owned by Colonial onto the land owned by the Plaintiffs in the subject lawsuit.

(9) The term the “CR-251 Incident” means the incident that occurred on October 31, 2016 on County Road 251 in Shelby County, Alabama wherein a Colonial Pipeline contractor struck a 36” below ground transmission gasoline pipeline while unearthing threaded O-rings and caused an explosion and release of gasoline from the pipeline owned by Colonial onto the land owned by the Plaintiffs in the subject lawsuit. This incident is referred to as “CR251 – Colonial Gasoline Pipeline Fire” on the EPA website. *See* https://response.epa.gov/site/site_profile.aspx?site_id=11897.

DOCUMENT REQUESTS

You are hereby commanded to do each of the following acts at the instance of the Plaintiffs within fifteen (15) days after service of this Subpoena:

That you produce and permit said Plaintiffs to inspect and copy each of the following documents:

1. Your complete file on the CR-251 Incident.
2. Any and all reports, assessments, evaluations or other documents prepared by the EPA or submitted to the EPA by another party related to the CR-251 Incident, the environmental impact of the CR-251 Incident, or the repair and remediation of the effects of the CR-251 Incident.
3. Any and all documents that refer or relate to any of the landowners of the property involved in the CR-251 Incident, including Plaintiff Timothy Webster, Plaintiff Shelby Investments, LLC, or Plaintiff Cahaba Outfitters, LLC.
4. Any and all documents related to the subject lawsuit.

5. Any and all correspondence and communications between you and Colonial, or any contractors or agents acting on behalf of Colonial, related to the CR-251 Incident, the environmental impact of the CR-251 Incident, the repair and remediation of the effects of the CR-251 Incident, or the subject lawsuit.

6. Any and all correspondence and communications between you and L.E. Bell, or any contractors or agents acting on behalf of L.E. Bell, related to the CR-251 Incident, the environmental impact of the CR-251 Incident, the repair and remediation of the effects of the CR-251 Incident, or the subject lawsuit.

7. Any and all correspondence and communications between you and Superior, or any contractors or agents acting on behalf of Superior, related to the CR-251 Incident, the environmental impact of the CR-251 Incident, the repair and remediation of the effects of the CR-251 Incident, or the subject lawsuit.

8. Any and all correspondence and communications between you and any other third parties related to the CR-251 Incident, the environmental impact of the CR-251 Incident, the repair and remediation of the effects of the CR-251 Incident, or the subject lawsuit.

9. Any and all photographs or videos of the CR-251 Incident, the response to the CR-251 Incident, or the repair and remediation of the CR-251 Incident.

10. Any and all other documents related to the CR-251 Incident, the environmental impact of the CR-251 Incident, the repair and remediation of the effects of the CR-251 Incident, or the subject lawsuit.

****Please attach certification to the records produced. (See Attached Affidavit).**

Said production and copying shall be conducted at the offices of Sirote & Permutt, P.C., 2311 Highland Avenue South, Birmingham, Alabama 35205, or at such other place as may be mutually agreed upon between you and the parties. You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection. You may object at any time prior to the date set forth herein for compliance.

You have the option to mail or deliver certified legible copies of the documents requested to **Deana Breckenridge, Paralegal, Sirote & Permutt, P.C., P.O. Box 55727, Birmingham, AL 35255-5727, dbreckenridge@sirote.com**, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable cost of making such copies.

s/James S. Williams

James S. Williams

Thomas Woodall
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Alyse N. Windsor
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*Attorneys for Plaintiffs Timothy
Webster; Shelby Investments, LLC;
and Cahaba Outfitters, LLC*

AFFIDAVIT**STATE OF ALABAMA****COUNTY OF _____**

Before me, the undersigned authority, personally appeared _____, who being by me first duly sworn, deposed and stated as follows:

My name is _____. I am of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein stated.

I am a legal custodian and keeper of records for the United States Environmental Protection Agency ("EPA"). Attached hereto are _____ pages of records from the EPA. These said pages of records are kept by the EPA in the regular course of business. It was in the regular course of business that an employee or representative with personal knowledge of the acts, events, transactions, occurrences or conditions recorded to make the record, or to transmit information thereof to be included in such record, and the record was made at or near the time of the acts, events, transactions, occurrences or conditions recorded, or within a reasonable time thereafter and it was the regular course of business to make and keep such records. The records attached hereto are true and complete duplicates of the original records.

AFFIANT

SWORN TO AND SUBSCRIBED before me, the undersigned authority, on this the _____ day of _____, 2019.

NOTARY PUBLIC _____
My Commission Expires: _____
NOTARY SEAL